

**AGREEMENT FOR SALE OF WATERLINE EASEMENT TO
CITY OF MILPITAS
ED R. LEVIN COUNTY PARK**

This is an Agreement between the COUNTY OF SANTA CLARA, a political subdivision of the State of California, (COUNTY) and the CITY of MILPITAS, a municipal corporation, (CITY) for the sale of a waterline easement over COUNTY parklands and compensation for this easement.

RECITALS

- A. COUNTY owns the three parcels within the City of Milpitas (APNs 029-34-002, 029-36-004 & 004) which consist of open space lands and park improvements that are a part of the Sandy Wool Day Use Area of the COUNTY's Ed R. Levin County Park.
- B. CITY operates a municipal water system. An extension of the CITY's water system was constructed from the Summit Point subdivision to a CITY owned water tank in Ed R. Levin County Park (APN 029-36-004) in 1991. This project was constructed under an agreement entitled "Resolution permitting the City of Milpitas to Proceed with the Construction of a Municipal Water Tank with all appurtenance water lines, structures, and service roads within Ed R. Levin Park" executed by the Board of Supervisors and City of Milpitas on September 2, 1980. No easement agreement was executed at the time of the agreement or after completion of the work. CITY and COUNTY wish to record a water line easement for this existing water line and incorporate it into this Agreement. The approximate 3,375 linear feet of water line and 3.59 acres of enclosed area for water tank and appurtenances is shown as Segment A-1 on Exhibit A.
- C. CITY wishes to extend its domestic water service to the Spring Valley Heights subdivision. Except for one parcel which is in the COUNTY, the subdivision is within the CITY boundaries but currently operates on unreliable wells. The approximately 12,200 linear feet of water line is divided into four segments with one segment requiring the granting of a water line easement of approximately 5,360 linear feet from the COUNTY to CITY, as shown as Segment A-2 shown on Exhibit A. The water line is to be built on existing paved and unpaved road surfaces through the park, referred to as "Project Site".
- D. COUNTY is responsible under Public Resources Code §5405(b) and its local Park Charter to ensure that if parklands are to be used for non-park

purposes, the provisions for compensation and replacement of parklands and facilities are fulfilled. The existing water service, shown as segment A-1 provides domestic water services to the County for county park purposes at wholesale rates resulting in significant operational savings to the park. In addition, a separate agreement between the county and the end user of the water line, Spring Valley Heights Association and Patrick Loo & Grace Tai, Trustees, will require the granting of a public trail easements through their properties as compensation for the water line through the County park. Therefore, the parties agree as follows:

1. TERM AND TERMINATION

a. Term: The term of this Agreement shall be three years from the execution date of this Agreement. The term may be extended by mutual written consent executed by both parties. If CITY decides to abandon the Easement at any time during the term of this Agreement, CITY shall provide COUNTY with written notice, which shall terminate this Agreement before its expiration.

b. Termination: COUNTY may terminate this Agreement for good cause upon written notice to CITY. Good cause includes, but is not limited to, any of the following:

- (i) CITY'S material breach of this Agreement
- (ii) Violation by CITY of any applicable County ordinance or California or Federal law
- (iii) Assignment of this Agreement without COUNTY's written consent pursuant to Section 9
- (iv) Failing to provide construction or other performances under this Agreement in a satisfactory manner. COUNTY shall provide a notice of default according to Section 6 below and a period of time to cure before declaring termination. The COUNTY's Director of the Parks and Recreation Department is empowered to terminate this Agreement on behalf of the COUNTY. In the event of termination, CITY shall deliver to COUNTY within 15 days of notice copies of all plans, drawings, reports, and other work related to the Agreement.

2. DEFINITIONS

a. Location Map - Exhibit A: Map showing general location of "Project site".

b. Waterline Easement - Exhibit B: Document by which COUNTY will transfer the proposed easement rights to CITY, B-1 (Legal description and Plat) for segment A-1 and B-2 (Legal description and Plat) for segment A-2.

- c. **Temporary Construction and Access Permit – Exhibit C:**
Document with conditions for CITY construction.

3. PURCHASE AND SALE

- a. **Conveyances** - CITY agrees to accept from COUNTY, and COUNTY agrees to convey to CITY an approximately 4.9-acre waterline easement described in Exhibit B.
- b. **Consideration** - In consideration for the value of the easements, CITY will install approximately 3 fire hydrants along new water line within Ed R. Levin County Park and continue to sell water for County uses at wholesale price pursuant to a Resolution Permitting the City of Milpitas to Proceed with the Construction of a Municipal Water Tank with appurtenance water lines, structures and service roads within Ed R. Levin County Park executed by the parties on September 2, 1980.

4. CITY'S OBLIGATIONS

CITY shall fulfill the following conditions in addition to those shown in the Temporary Construction and Access Permit attached as Exhibit C:

- a. **Performance Bond**: CITY shall secure, or cause their contractor or assignees contractor to provide a performance bond for completion of the waterline improvements and restoration of COUNTY lands equal to 100% of CITY's project construction costs to insure the total project completion, including design, permitting, construction and construction management of the Easement Improvements. CITY shall provide COUNTY evidence of such bond 15 days before starting construction of the Project. Such bond shall include the COUNTY as beneficiary on the performance bond.
- b. **Environmental Assessment**: The California State Department of Health Services (DHS) is the lead agency for the water line project. A Mitigated Negative Declaration and Mitigation Monitoring Plan was prepared by the State of California in July 2005 and was adopted by DHS on September 23, 2005 pursuant to the California Environmental Quality Act Guidelines, Section 15074(b).. COUNTY is identified as "Responsible Agency" for the Temporary Access and Construction Permit aspects of the project.
- c. **Construction Plans, Specifications and Schedule**: CITY shall be the permitting agency with responsibility for inspection, approval, certification and completion of the project. CITY shall submit its construction plans to COUNTY for review and comment at least 30 days before awarding a construction contract or initiating work on the waterline. CITY shall not proceed with any construction on COUNTY land without COUNTY's written approval, which shall not be unreasonably withheld.

CITY shall submit its construction schedule to County's Project Manager for approval at least ten (10) calendar days before the start of work. Upon receipt of COUNTY approval and start of construction, CITY shall diligently pursue all work until completion. CITY shall provide 48 hours notice to COUNTY of the final inspection of the project site upon completion of project construction.

- d. **Changes**: CITY shall not change any of the plans for the Project Site Improvements without the written consent of the COUNTY's Project Manager.
- e. **Record Drawings and Legal Description**: CITY shall provide COUNTY with a complete set of record drawings for the Project Site Improvements within thirty (60) calendar days after CITY files its notice of initial acceptance for its Project. CITY shall also provide verification or revised legal description and plat map(s) reflecting the constructed water line alignment for recording within 90 days of construction completion.
- f. **Laws and Permits** - All work performed by CITY in the Easement and Temporary Construction and Access Permit areas shall conform to applicable water, grading, environmental, building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner. CITY shall secure all required permits at its own expense.

5. ENVIRONMENTAL COMPLIANCE & INDEMNIFICATION

- a. **Indemnity and Hold Harmless**: CITY agrees to indemnify and hold harmless COUNTY, its governing Board, officers, employees, and agents, and successors to COUNTY's interest in the chain of title, their directors, officers, employees, and agents, against any and all liability, including third party conduct except for COUNTY's conduct, arising out of the presence, use, generation, storage, release or disposal of hazardous materials on the areas contained within the Easement Improvements because of CITY's construction. Such indemnity shall include:
 - (i) all foreseeable and unforeseeable consequential damages arising out of such presence, use generation, storage, release or disposal of hazardous materials;
 - (ii) the cost of any required or necessary repair, cleanup, or decontamination and the preparation of any site mitigation closure or other required plans arising out of such presence, use, generation, storage, release or disposal of hazardous materials.
- b. **Definition of Hazardous Materials**: "Hazardous Materials" shall include, but not be limited to, flammable explosives, radioactive materials, hazardous wastes, toxic substances and related materials,

and substances defined as "hazardous substances" or "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq, the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; and those substances defined as "hazardous wastes" in Section 25117 of the California Health & Safety Code or as "hazardous substances" in Section 25316 of the California Health & Safety Code; and in the regulations adopted and publications promulgated pursuant to said laws.

- c. **COUNTY Representation** - COUNTY warrants and represents that it has disclosed to CITY in writing all the information it has on the prior or existing presence, storage, disposal or release of any hazardous substances on the property. CITY shall be responsible for the removal of any hazardous substances in the Project area according to applicable local, state or federal law.

6. DEFAULT

If CITY defaults on the obligations of this Agreement or any subsequent Agreement affecting the COUNTY's property, COUNTY may terminate this Agreement.

Before exercising any remedy for an Event of Default, COUNTY shall give written notice of such default to CITY. CITY shall have ten (10) calendar days after such notice is given to start to cure the default.

All default shall be cured within thirty (30) calendar days after COUNTY's written notice. If any default or breach continues uncured following notice and opportunity to cure, and CITY has not completed cure of the default within the thirty (30) calendar days nor diligently pursued a cure that exceeds 30 days, then COUNTY may terminate this Agreement. Any extension of time beyond the thirty (30) calendar days to cure may be for such events as acts of God, force majeure or the acts of other public agencies or public utilities, which shall be proved by CITY by substantial evidence and granted in COUNTY's sole judgment. The COUNTY shall consider CITY's diligent pursuit of performance measured against events causing delays outside this Agreement. In addition to any remedy of COUNTY in law or in equity, COUNTY may bring action for specific performance. Any such termination shall not impair the COUNTY's ability to require CITY to restore the property within the Easement Improvements at its costs. COUNTY may start an action to pursue all of its legal remedies available to COUNTY in law or equity. It is understood that the provisions of this section shall survive the recording of any property rights.

7. INDEMNITY

CITY shall indemnify, defend, and hold harmless the COUNTY, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by CITY or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the COUNTY. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the COUNTY. CITY shall reimburse the COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the CITY is obligated to indemnify, defend and hold harmless the COUNTY under this Agreement.

8. INSURANCE

Throughout the term of construction of Project Site Improvements under this Agreement, CITY shall maintain, or cause to maintain, in full force and effect, comprehensive automobile and general liability insurance covering bodily and personal injury and property damage in the amounts set forth in Exhibit D at its sole cost and expense. CITY shall provide proof of insurance coverage before CITY enters COUNTY property. This Agreement is not valid without CITY insurance in effect as shown on Exhibit B of the Temporary Construction and Access Permit, Exhibit C.

9. BINDING EFFECT/ASSIGNMENT

The conditions and obligations of this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. CITY's rights and obligations under this Agreement may be transferred or assigned, provided assignee agrees to perform every condition and obligation in this Agreement. Any such transfer or assignment shall be subject to the provisions of this Agreement, which requires COUNTY's written consent, which shall not be unreasonably withheld. During the term of this Agreement, any such assignee or transferee shall perform all of the obligations of CITY in this Agreement as such obligations pertain to the portion of the real property so transferred or assigned. CITY shall give COUNTY notice at least thirty (30) calendar days before any such sale, assignment or transfer.

10. ENFORCEMENT

If either party breaches an obligation under this Agreement, the non-breaching party shall have all rights and remedies against the breaching

party afforded by law, including but not limited to, the right to recover damages, and the right to obtain specific performance of the obligation.

11. DELEGATION OF AUTHORITY

COUNTY hereby delegates authority to the COUNTY's Director of Parks and Recreation to execute any documents to carry out the purposes of this Agreement, including but not limited to, execution of documents required for recording, and amendments to the Agreement.

12. SEVERABILITY

The parties agree that the provisions of this Agreement are severable. If any provision of this Agreement is held invalid, the remainder of this Agreement shall remain in full force and effect unless amended or modified by mutual consent of the parties.

13. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement contains the entire understanding between the parties relating to the transactions included in it. All statements, oral or written, are merged into this Agreement. This Agreement may be amended by the mutual consent of the parties and must be in writing and executed by all parties. The length of term of this Agreement shall include any such amendment properly approved and executed.

14. COMPLIANCE WITH LAWS

During the term of this Agreement, CITY shall promptly comply with all requirements of all federal, state and municipal governments, agencies, courts, commissions boards, or any other body exercising functions similar to those of any of the foregoing, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the COUNTY's property and to the CITY's Project at CITY's sole cost and expense.

15. RESTORATION

CITY shall restore COUNTY's lands to a condition equal to or better than that which existed before any construction, repair or restoration. After construction or repairs, CITY shall reseed any exposed area with native grasses at 25 pounds per acres, replace any understory shrubs with five-gallon native plants at a rate of 1:1, and replace any live trees 12 inches in diameter or less as measured at 4.5 feet above the ground with 15-gallon native trees at a rate of 3:1. COUNTY shall have the right to

approve all such replacement plants in advance, which approval shall not be unreasonably withheld. CITY shall guarantee the trees planted for three years from date planted. CITY shall restore any grades and reseed any disturbed areas as described above.

16. REVERSION

If the easement areas described in Exhibits B-1, and B-2 are not used for the purpose described in this Waterline Easement, all rights granted shall revert to the COUNTY, and CITY shall cooperate in providing a suitable document, such as a Quitclaim Deed, to extinguish this Waterline Easement.

17. NOTICE.

Any notices required under this Agreement shall be considered delivered if sent by United States Postal Service postage paid or by personal delivery to the following:

COUNTY

Lisa Killough, Director
County of Santa Clara
Parks & Recreation Dept.
298 Garden Hill Drive
Los Gatos CA 95032

CITY

Greg Armendariz, City Engineer
Engineering Division
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

ENTIRE AGREEMENT

This Agreement represents the parties' complete understanding about the Property and the Project. This Agreement extinguishes and revokes any other oral or written agreements about the Property or the Project.

The parties have executed this Agreement as of the latest date shown below:

COUNTY

CITY

Liz Kniss, Chair
Board of Supervisors

Charles Lawson
Interim City Manager

Date: _____
Signed and Certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

Date: _____

ATTEST:

Phyllis A. Perez, Clerk
Board of Supervisors

Date: _____

APPROVED AS TO FORM &
LEGALITY

Kathryn A. Berry
Kathryn A. Berry,
Deputy County Counsel

Nov. 18, 2005

ATTEST:

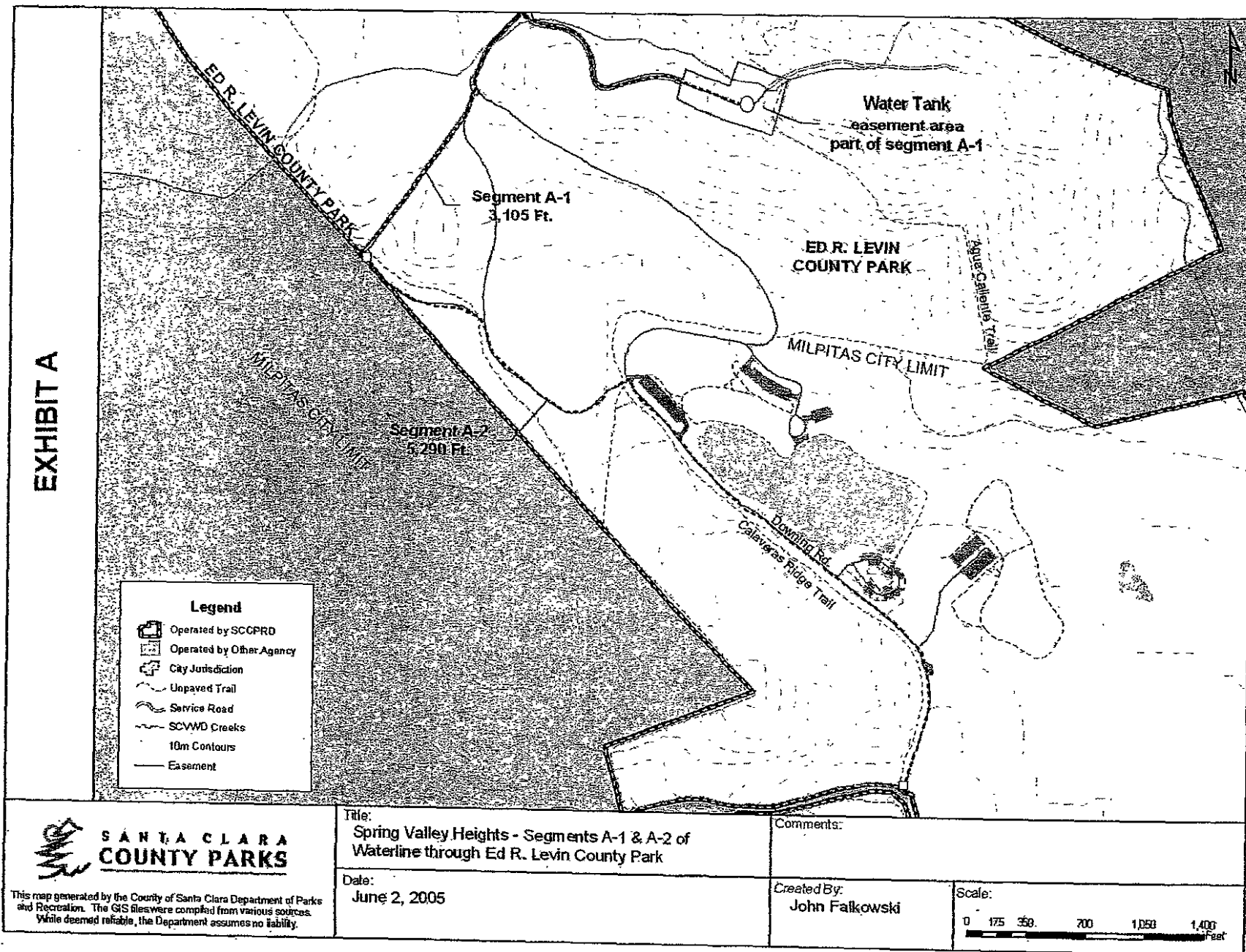
Donna Biles,
City Clerk

Date: _____

APPROVED AS TO FORM &
LEGALITY

[Signature]
City Attorney

EXHIBIT A



This map generated by the County of Santa Clara Department of Parks and Recreation. The GIS files were compiled from various sources. While deemed reliable, the Department assumes no liability.

EXHIBIT B-1

When recorded, return to:
Control # _____
City of Milpitas
Public Works Department
455 E. Calaveras Blvd.
Milpitas, CA 95035

WATERLINE EASEMENT

Park: Ed R. Levin
Project: Milpitas Waterline
APN: 029-36-004

COUNTY OF SANTA CLARA, a political subdivision of the State of California, (COUNTY)

grants to

CITY OF MILPITAS, a municipal corporation, (CITY)

an easement for the installation and maintenance of a potable waterline and all necessary appurtenances over the real property in the County of Santa Clara, State of California, described on the attached Exhibit B-1 under the following conditions:

1. Restoration - CITY shall restore COUNTY's lands to a condition equal to or better than that which existed before any construction, repair or restoration. CITY shall restore any grades and reseed any subsided areas as described in the easement agreement.
2. Notice - CITY shall notify COUNTY's Director of Parks and Recreation 48 hours before any repair is started. CITY shall notify COUNTY within 24 hours of starting any emergency repairs.
3. Indemnity - CITY shall indemnify, defend and hold harmless the COUNTY, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of the exercise of this Easement by CITY, its agents, employees, or subcontractors. CITY shall reimburse the COUNTY for all costs, attorneys' fees, expenses and liabilities incurred in any litigation arising out of CITY's exercise of this easement. Excepted from this indemnity are losses, injuries or damage caused solely by the acts or omissions of the COUNTY.
4. Reversion - If the easement areas described in Exhibits B-1 is not used for the purpose described in this Easement, all rights granted shall revert to the COUNTY, and CITY shall cooperate in providing a suitable document, such as a Quitclaim Deed, to extinguish this Easement.
5. Consideration - In consideration of the conveyance of this easement by the County, the City shall continue to sell the water for County uses at the wholesale price pursuant to a Resolution Permitting the City of Milpitas to Proceed with the Construction of a Municipal Water Tank with all appurtenance water lines, structures, and service roads within Ed R. Levin Park executed by the parties on September 2, 1980.

Dated: _____

Liz Kniss, Chair

=====
State of California }
County of Santa Clara }
State of California }
County of Santa Clara }
 ss.

On _____, 2005, before me, _____ a Notary Public in and for said State, personally appeared Liz Kniss, Chair, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this Instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the Instrument, the person or the entity upon behalf of which the person acted executed the instrument.

Notary Public

WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
LEGAL DESCRIPTION
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Park: Ed R. Levin
Project: Milpitas Waterline

APN: 029-36-004,

LEGAL DESCRIPTION OF
A WATERLINE & ACCESS EASEMENT

AN EASEMENT FOR A WATERLINE & ACCESS ROAD ON, OVER, UNDER AND ACROSS A PORTION OF LOT 89, MAP OF TRACT 6452, LA CUESTA, FILED IN BOOK 488 OF MAPS, PAGES 1 THROUGH 12, SANTA CLARA COUNTY RECORDS AND THE LANDS OF SANTA CLARA COUNTY FROM THE EASTERLY CORNER OF LOT "D" OF SAID TRACT TO THE MINNIS WATER TANK SITE, ED LEVIN PARK, SANTA CLARA COUNTY, CALIFORNIA DESCRIBED AS FOLLOWS:

PARCEL A:

BEGINNING AT A POINT ON THE NORTHEAST LINE OF SAID LOT "D" IN THE CENTER OF AN EXISTING 20 FOOT WIDE WATERLINE & ACCESS EASEMENT & P.S.U.E. PER SAID TRACT 6452, BEING DISTANT THEREON NORTH 58°56'44" WEST, 24.34 FEET FROM THE EASTERLY CORNER OF SAID LOT "D";

THENCE ALONG A STRIP OF EASEMENT 20 FEET WIDE, THE CENTERLINE OF WHICH BEING ALONG THE FOLLOWING COURSES:

SOUTH 83°12'22" EAST, 22.19 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 122.47 FEET;

THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 139°23'40", AN ARC LENGTH OF 297.96 FEET;

THENCE NORTH 42°36'02" WEST, 9.28 FEET AND NORTH 47°23'58" EAST, 40.00 FEET MORE OR LESS TO THE MILPITAS CITY LIMITS;

THENCE ACROSS THE LANDS OF SANTA CLARA COUNTY THE FOLLOWING COURSES:

NORTH 47°23'58" EAST, 95.12 FEET;

NORTH 35°40'09" EAST, 981.76 FEET AND

NORTH 24°25'09" EAST, 143.07 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 70.00 FEET, THE CENTER OF WHICH BEARS NORTH 55°04'03" EAST;

THENCE ALONG A STRIP OF EASEMENT 30 FEET WIDE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°01'03", AN ARC LENGTH OF 25.88 FEET TO THE BEGINNING OF CONCENTRIC CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 70.00 FEET, THE CENTER OF WHICH BEARS NORTH 34°03'00" EAST;

WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
LEGAL DESCRIPTION
Page 2 of 4

Park: Ed R. Levin
Project: Milpitas Waterline

APN: 029-36-004,

THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 77° 08' 26", AN ARC LENGTH OF 94.24 FEET;

THENCE ALONG A STRIP OF EASEMENT 20 FEET WIDE, NORTH 21° 41' 28" EAST, 105.75 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 400.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 53' 14", AN ARC LENGTH OF 159.82;

THENCE NORTH 44° 05' 00" EAST, 170.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 50.00 FEET;

THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 81° 05' 00", AN ARC LENGTH OF 70.76 FEET TO THE BEGINNING OF A CONCENTRIC CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 50.00 FEET, THE CENTER OF WHICH BEARS SOUTH 53° 00' 00" WEST;

THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44° 14' 04", AN ARC LENGTH OF 38.60 FEET;

THENCE SOUTH 82° 45' 58" EAST, 35.80 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 150.00 FEET;

THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07° 14' 04", AN ARC LENGTH OF 18.94 FEET TO A TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 48.00 FEET, THE CENTER OF WHICH BEARS DUE EAST;

THENCE ALONG A STRIP OF EASEMENT 20 FEET WIDE AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80° 14' 45", AN ARC LENGTH OF 67.23 FEET;

THENCE SOUTH 80° 14' 45" EAST, 140.50 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 250.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 72° 56' 30", AN ARC LENGTH OF 318.27 FEET;

THENCE SOUTH 07° 18' 15" EAST, 76.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 75.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 100° 22' 22", AN ARC LENGTH OF 131.39 FEET;

THENCE NORTH 72° 19' 22" EAST, 170.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 380.00 FEET;

WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
LEGAL DESCRIPTION
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Park: Ed R. Levin
Project: Milpitas Waterline

APN: 029-36-004,

THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $34^{\circ}10'38''$, AN ARC LENGTH OF 226.67 FEET TO POINT "A" AND THE TERMINUS OF THIS PORTION OF THIS EASEMENT DESCRIPTION, BEING DISTANT THEREON NORTH $57^{\circ}19'55''$ EAST, 2,411.41 FEET FROM THE POINT OF BEGINNING.

PARCEL B:

BEGINNING AT SAID POINT "A" REFERENCED ABOVE;

THENCE SOUTH $16^{\circ}30'00''$ WEST, 100.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, THE CENTER OF WHICH BEARS SOUTH $16^{\circ}30'00''$ WEST, 280.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $7^{\circ}50'22''$, AN ARC LENGTH OF 38.31 FEET;

THENCE SOUTH $65^{\circ}39'38''$ EAST, 58.09 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 250.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $6^{\circ}27'39''$, AN ARC LENGTH OF 28.19 FEET;

THENCE SOUTH $72^{\circ}07'17''$ EAST, 475.00 FEET;

THENCE NORTH $17^{\circ}52'43''$ EAST, 330.00 FEET;

THENCE NORTH $72^{\circ}07'17''$ WEST, 320.00 FEET;

THENCE SOUTH $17^{\circ}52'43''$ WEST, 150.00 FEET;

THENCE NORTH $72^{\circ}07'17''$ WEST, 155.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 70.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $6^{\circ}27'39''$, AN ARC LENGTH OF 7.89 FEET;

THENCE NORTH $65^{\circ}39'38''$ WEST, 58.09 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 450.00 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $7^{\circ}50'22''$, AN ARC LENGTH OF 62.94 FEET;

THENCE SOUTH $16^{\circ}30'00''$ WEST, 80.00 FEET TO THE POINT OF BEGINNING OF THIS PORTION OF THIS EASEMENT DESCRIPTION.

THE SIDELINES OF THE ABOVE DESCRIBED STRIPS SHALL BE PROLONGED OR SHORTENED SO AS TO BEGIN AT SAID NORTHEAST LINE OF LOT "D", INTERSECT SO AS NOT TO CREATE

WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
LEGAL DESCRIPTION
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Park: Ed R. Levin
Project: Milpitas Waterline

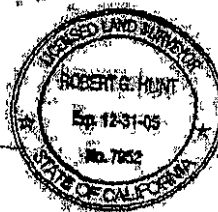
APN: 029-36-004,

ANY GAPS OR GORES ALONG THE ENTIRE LENGTH OF THE ABOVE DESCRIBED STRIPS AND
END ON THE NORTHWEST LINE OF SAID PARCEL B.

A PLAT OF THE ABOVE DESCRIBED EASEMENT IS ATTACHED HERETO AS EXHIBIT "B" AND
BY REFERENCE MADE A PART HEREOF.

AMERICAN BASELINE COMPANY


ROBERT HUNT, L.S. 7952
LICENSE EXPIRES 12-31-05



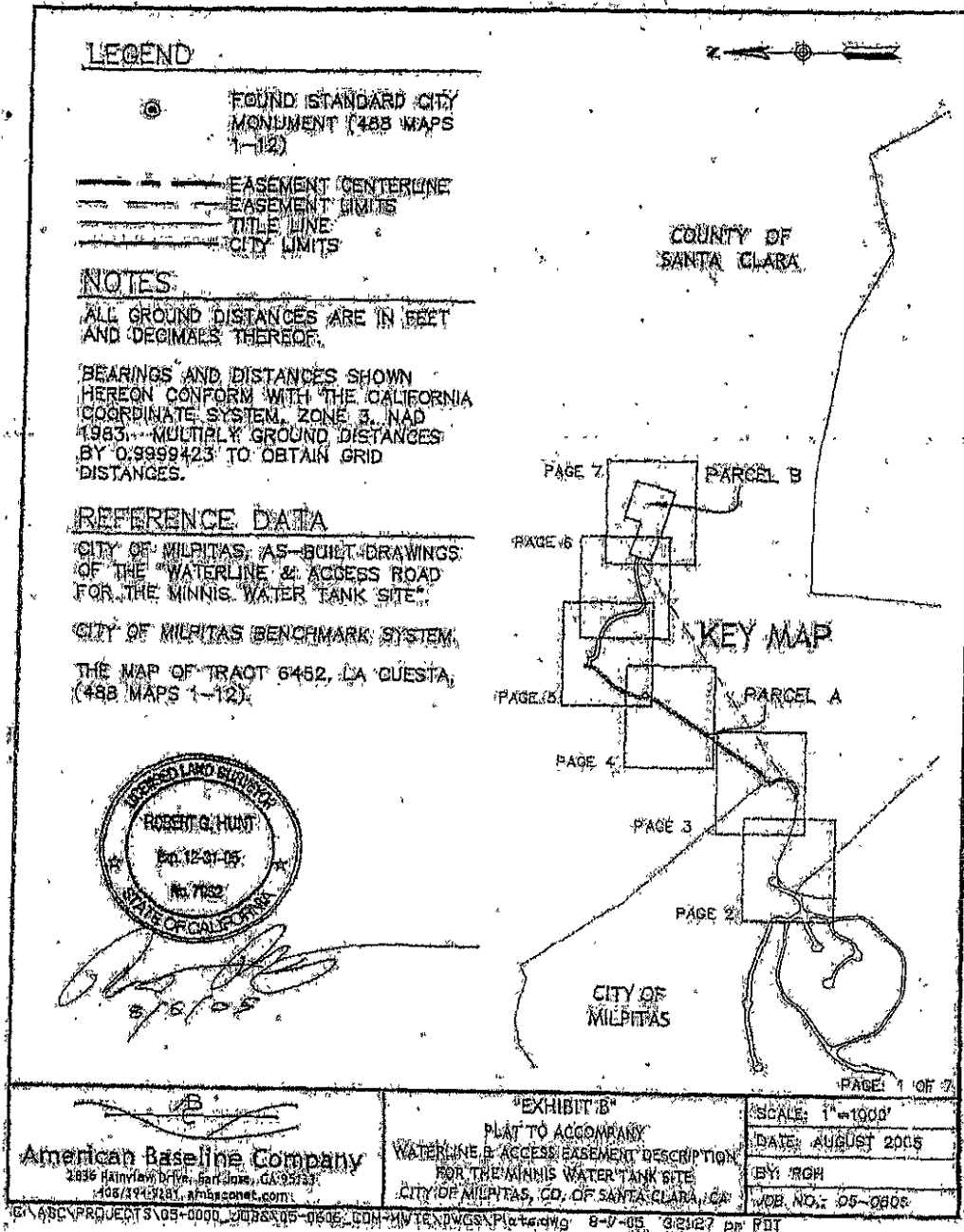
8/6/05
DATE

END OF THIS DESCRIPTION

WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
PLAT MAP
Page 1 of 7

Park: Ed R. Levin
 Project: Milpitas Waterline

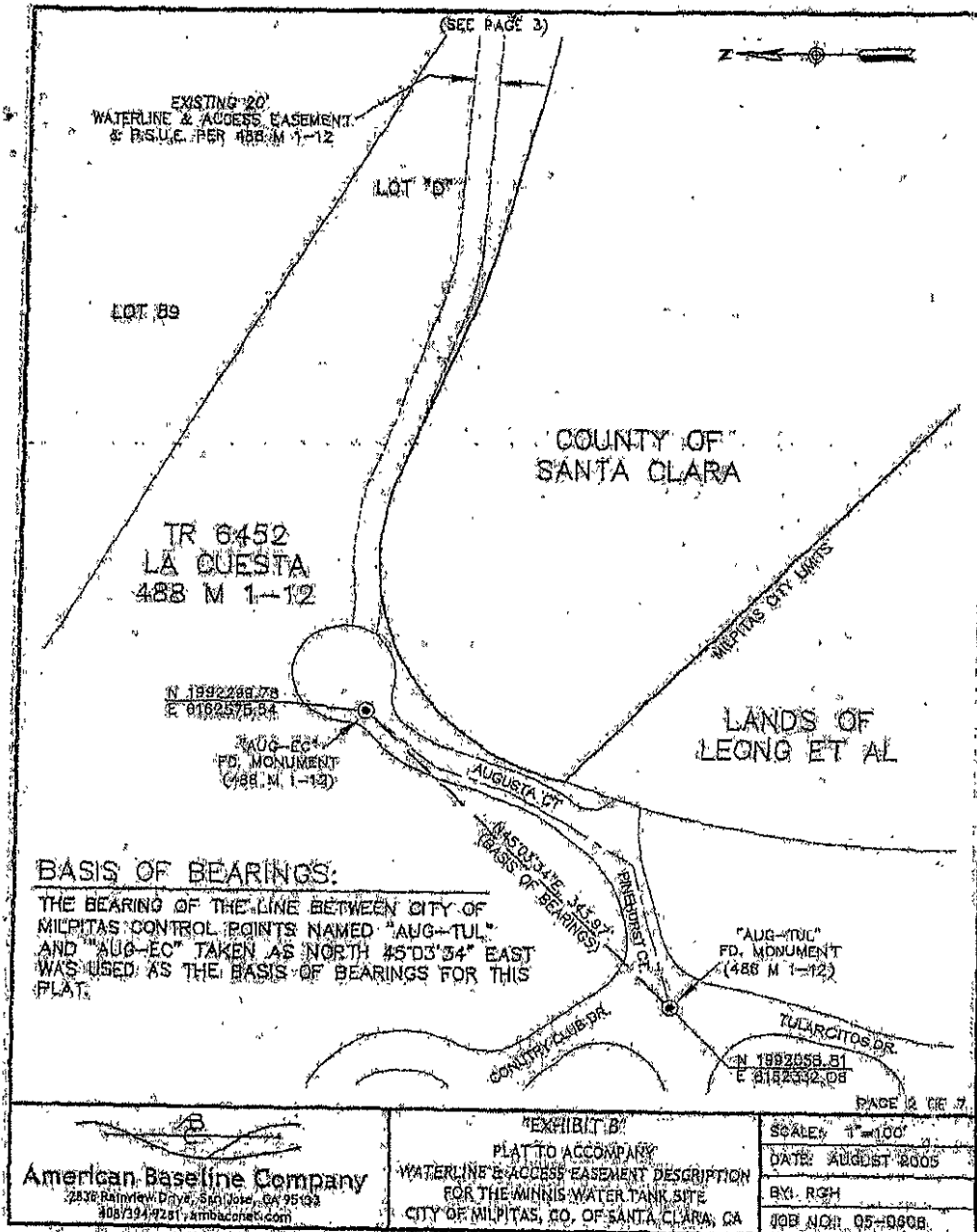
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WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
PLAT MAP
Page 2 of 7

Park: Ed R. Levin
 Project: Milpitas Waterline

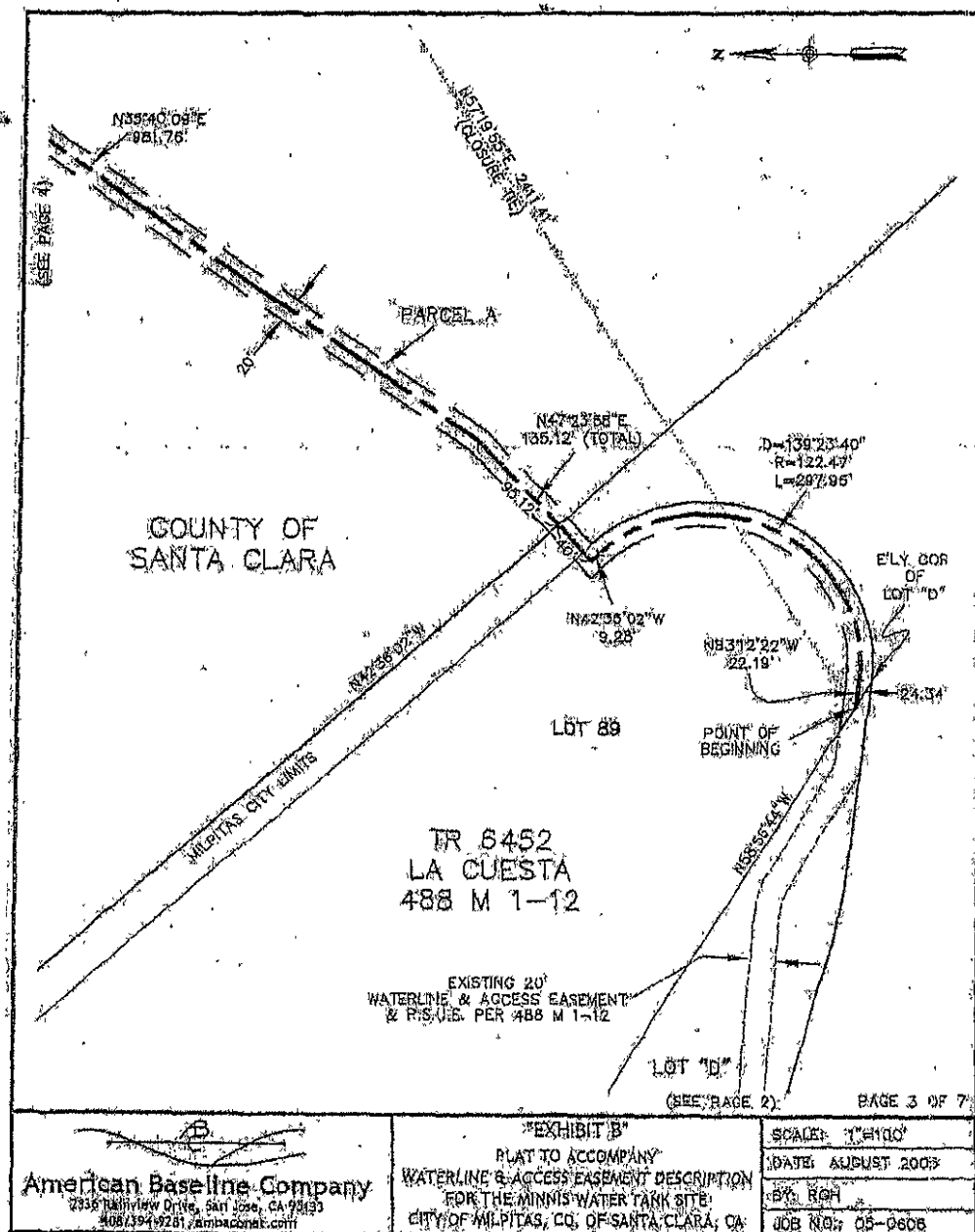
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WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
PLAT MAP
Page 3 of 7

Park: Ed R. Levin
 Project: Milpitas Waterline

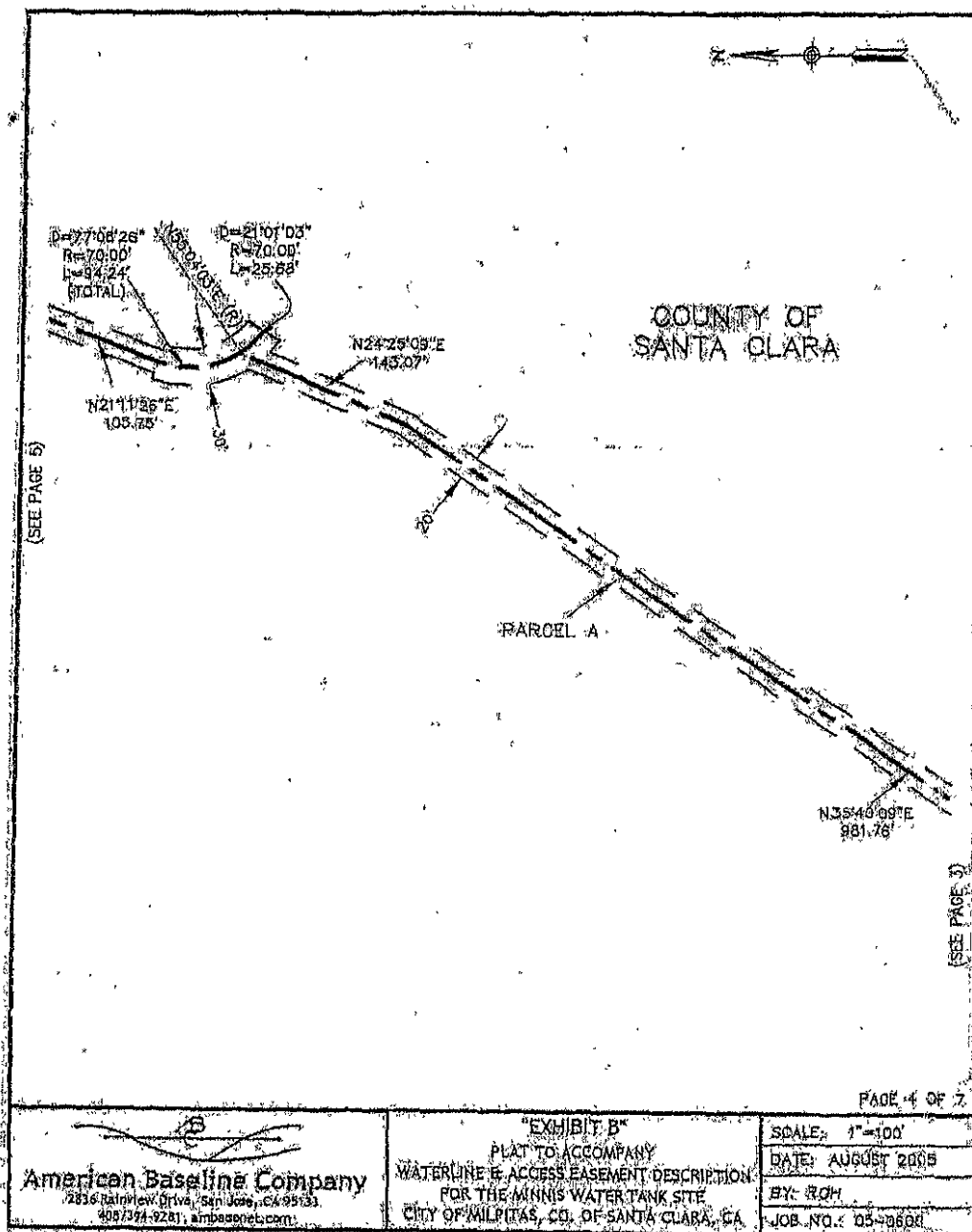
APN:029-36-004,



WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
PLAT MAP
 Page 4 of 7

Park: Ed R. Levin
 Project: Milpitas Waterline

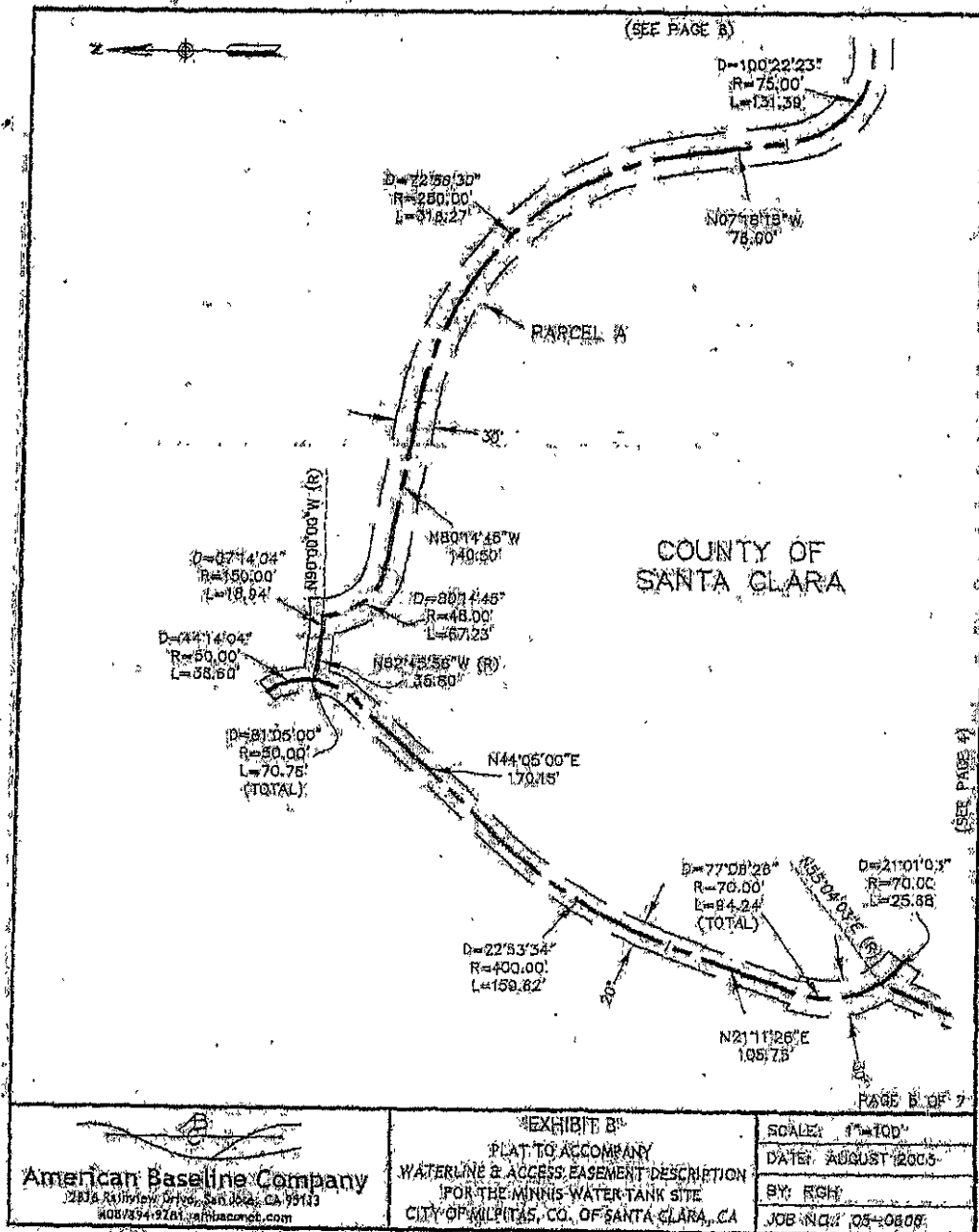
APN:029-36-004,



WATERLINE EASEMENT
EXHIBIT B-1
SEGMENT A-1
PLAT MAP
 Page 5 of 7

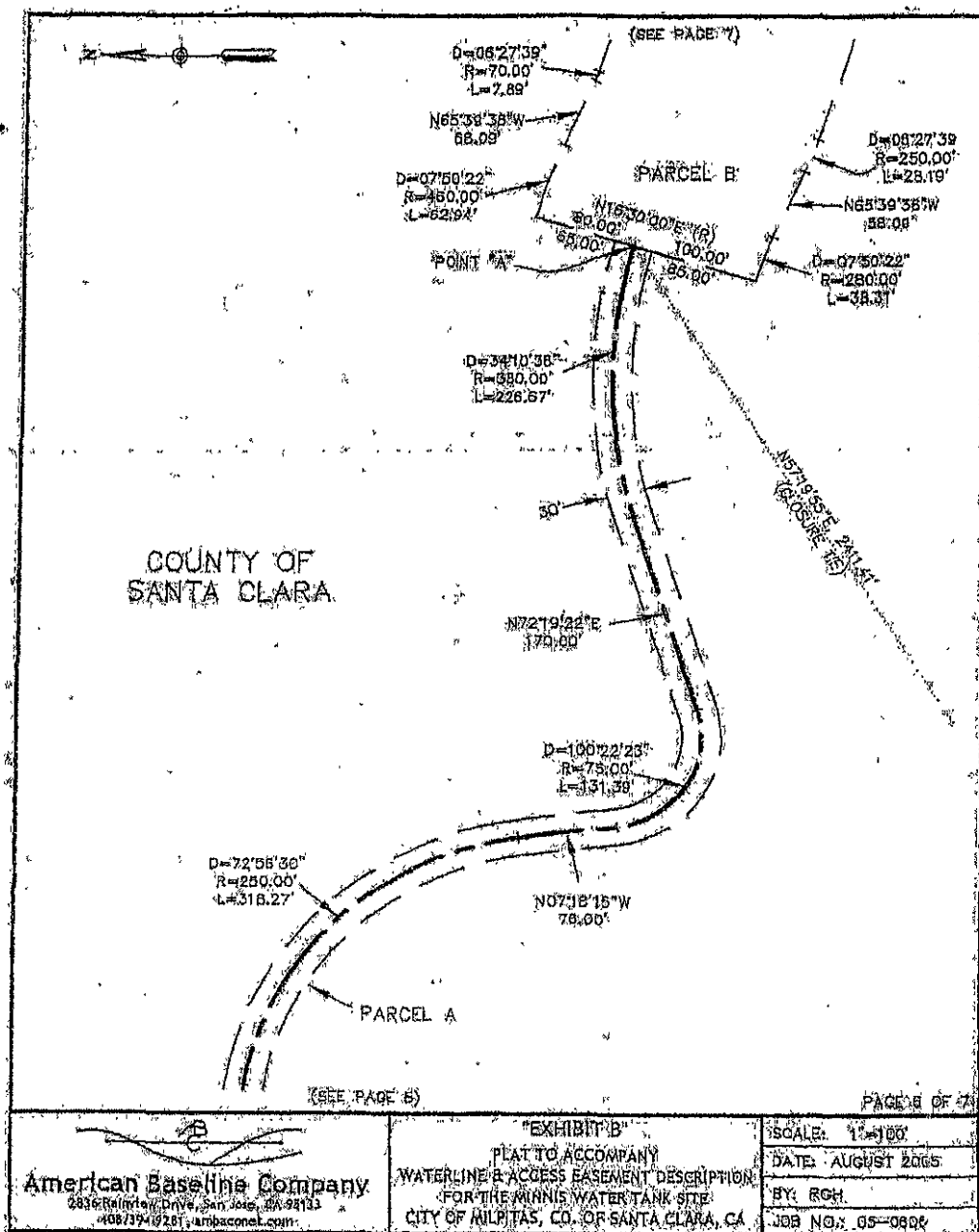
Park: Ed R. Levin
 Project: Milpitas Waterline

APN:029-36-004,



**EXHIBIT B-1
SEGMENT A-1
PLAT MAP
Page 6 of 7**

APN:029-36-004,



**EXHIBIT B-1
SEGMENT A-1
PLAT MAP
Page 7 of 7**

APN:029-36-004,

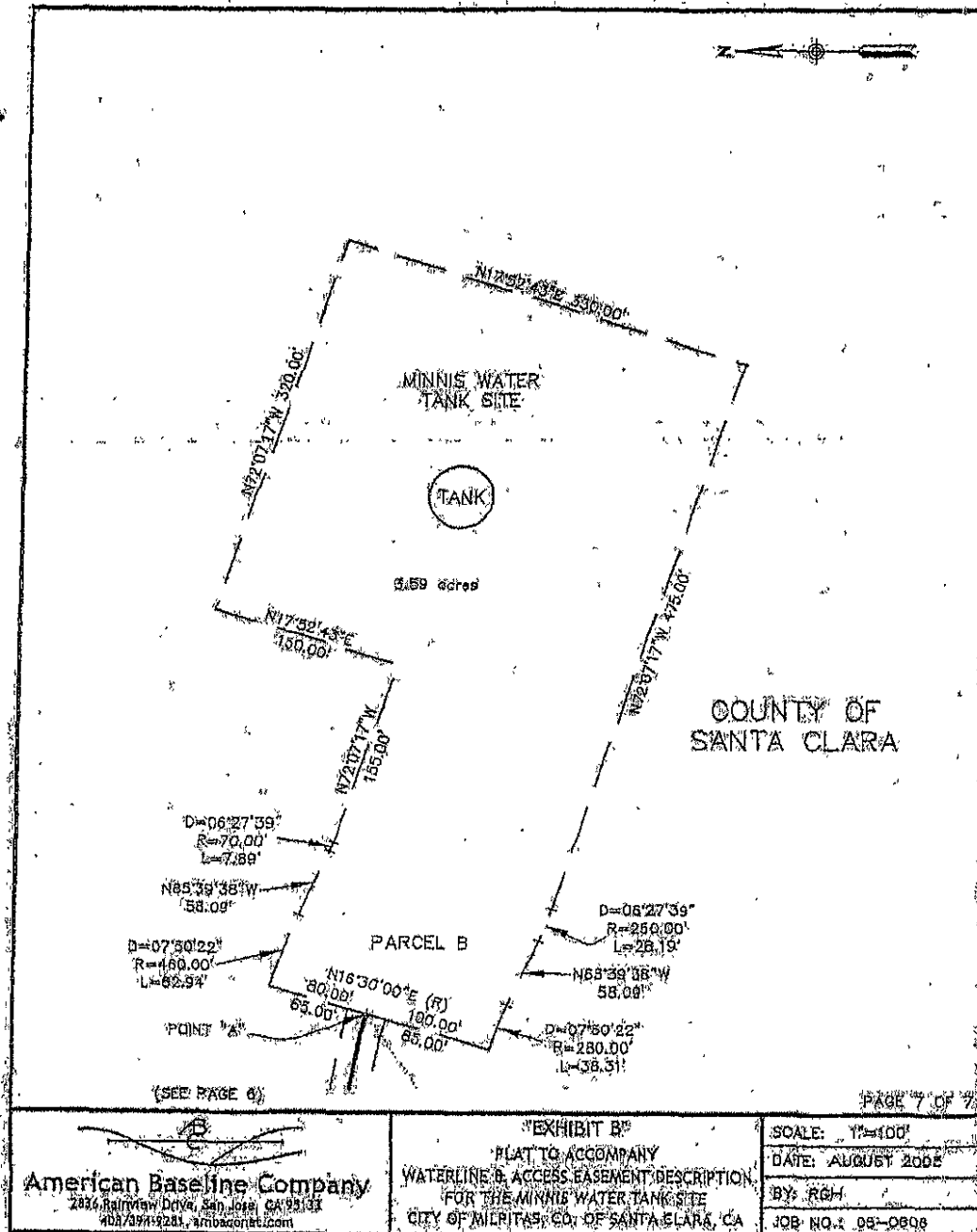


EXHIBIT B-2

When recorded, return to:
Control # _____
City of Milpitas
Public Works Department
455 E. Calaveras Blvd.
Milpitas, CA 95035

WATERLINE EASEMENT

Park: Ed R. Levin
Project: Milpitas Waterline
APN: 029-34-002, 029-36-
003 & 004

COUNTY OF SANTA CLARA, a political subdivision of the State of California, (COUNTY)

grants to

CITY OF MILPITAS, a municipal corporation, (CITY)

an easement for the installation and maintenance of a potable waterline and all necessary appurtenances over the real property in the County of Santa Clara, State of California, described on the attached exhibit under the following conditions:

1. Restoration - CITY shall restore COUNTY's lands to a condition equal to or better than that which existed before any construction, repair or restoration. CITY shall restore any grades and reseed any subsided areas as described in the easement agreement.
2. Notice - CITY shall notify COUNTY's Director of Parks and Recreation 48 hours before any repair is started. CITY shall notify COUNTY within 24 hours of starting any emergency repairs.
3. Indemnity - CITY shall indemnify, defend and hold harmless the COUNTY, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of the exercise of this Easement by CITY, its agents, employees, or subcontractors. CITY shall reimburse the COUNTY for all costs, attorneys' fees, expenses and liabilities incurred in any litigation arising out of CITY's exercise of this easement. Excepted from this indemnity are losses, injuries or damage caused solely by the acts or omissions of the COUNTY.
4. Reversion - If the easement areas described in this Exhibits B-2 is not used for the purpose described in this Easement, all rights granted shall revert to the COUNTY, and CITY shall cooperate in providing a suitable document, such as a Quitclaim Deed, to extinguish this Easement.

Dated: _____

Liz Kniss, Chair

=====

State of California)	
County of Santa Clara)	ss.
State of California)	
County of Santa Clara)	

On _____, 2005, before me, _____ a Notary Public in and for said State, personally appeared Liz Kniss, Chair, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted executed the instrument.

Notary Public

WATERLINE EASEMENT
EXHIBIT B-2
SEGMENT A-2
LEGAL DESCRIPTION

Park: Ed R. Levin
Project: Milpitas Waterline

APN: 029-34-002, 029-36-
003 & 004

Legal Description of easement to be pasted here once water line is installed, final 10 foot wide easement alignment is surveyed and legal description is prepared.

WATERLINE EASEMENT
EXHIBIT B-2
SEGMENT A-2
PLAT MAP

Park: Ed R. Levin
Project: Milpitas Waterline

APN: 029-34-002, 029-36-
003 & 004

Plat of easement to be pasted here once water line is installed, final 10 foot wide easement alignment is surveyed and plat is prepared.

EXHIBIT C
Temporary Construction Access and Permit
TEMPORARY CONSTRUCTION & ACCESS PERMIT
CITY OF MILPITAS – ED R. LEVIN COUNTY PARK

This is a Temporary Construction & Access Permit (Permit) from the COUNTY OF SANTA CLARA (COUNTY) to the CITY OF MILPITAS (CITY) to allow CITY to access to the Permit Area and the proposed waterline easement area to construct Improvements for CITY's waterline project (PROJECT) and restore COUNTY parklands and facilities in Ed R. Levin County Park. The Permit Area consists of the land described in COUNTY's Waterline Easement granted in conjunction with this Permit.

COUNTY will permit CITY to construct the PROJECT and restore COUNTY parklands and facilities on the terms and conditions set forth below and in the area shown in Exhibit A.

I. TERM

The term of this Permit is three years from the date the *Agreement to Sell Property Rights to City of Milpitas – Ed R. Levin County Park* is executed by both parties, unless extended by mutual written agreement.

II. CONSTRUCTION

1. PRE-CONSTRUCTION MEETING

CITY shall hold at least one pre-construction meeting in the field with the COUNTY's Construction Manager Mohamed Assaf (Project Manager). CITY shall notify the Project Manager (408) 355-2208; Fax (408) 355-2290, 72 hours in advance of any pre-construction meetings.

2. PUBLIC ACCESS

CITY shall keep the public trails and roads of Ed R. Levin County Park open to the public with two-way traffic access at all times unless authorized by COUNTY's Project Manager for public safety.

3. CONSTRUCTION PROHIBITED

CITY shall not use any COUNTY property outside the Permit area for any construction activities.

4. PROTECTION OF PROPERTY

Before the start of construction, CITY shall provide protections and protective structures (e.g., temporary fencing) with buffers extending one foot beyond drip lines around existing trees and adequate to protect existing sensitive resources. CITY shall obtain the Project Manager's prior approval before trimming or removing any existing trees. (COUNTY policy requires that trees of 12" or greater diameter or 20' or higher not be removed without a scheduled public hearing before the COUNTY's Board of Supervisors.)

5. WATER QUALITY COMPLIANCE

CITY shall be responsible for procurement and delivery of all permits to COUNTY from the appropriate agencies concerning water quality compliance before start of construction. During construction, CITY shall take all precautions to ensure that all requirements of the water quality permits are met. CITY shall construct the Easement Improvements and Park

EXHIBIT C

Temporary Construction Access and Permit

Improvements to minimize erosion and water runoff into Sandy Wool Lake. CITY is responsible for executing any action required by any federal, state or local regulatory agency to ensure water quality compliance. CITY's indemnification of the COUNTY shall include this obligation.

6. SIGNS

CITY shall install and maintain information signs as directed by the COUNTY's Project Manager before the start of and during the construction on the waterline.

CITY shall place any signs required throughout the project at least five (5) working days in advance of construction activities. CITY shall maintain the signs so that they remain upright and visible to Park users. CITY shall immediately replace damaged or missing signs according to the above requirements.

CITY shall install additional signs within 24 hours of COUNTY's notice to do so. If such signs are not installed within 24 hours, construction activity in the affected area shall stop until the required sign is installed. CITY shall hold COUNTY harmless against all claims and damages arising from such suspension of work.

7. SITE CONDITIONS.

- a. Staking - CITY shall stake or mark pavement of the Permit area before the start of construction. COUNTY's Project Manager shall have the right to inspect and approve the staking/markings before the start of construction.
- b. Plant Marking - CITY shall flag all plant material proposed for removal for COUNTY's Project Manager to review and approve.
- c. Backfill Trenches - At the end of each day, CITY shall backfill any trenches with compacted native material, fence the trenched area, and install steel plates with asphalt transition where appropriate.
- d. Construction Fencing - CITY shall install reflective construction fencing and traffic cones at all work locations and maintain them in place until CITY completes construction, removes all material and equipment, and COUNTY approves and accepts the restoration of park property.
- e. Flaggers - CITY shall provide flaggers whenever CITY brings or removes material and equipment to the site, and construction activity affects trail/park road use.
- f. Roads and Trails - All park roads and trails shall remain open to two-way traffic at all times. If the Project Manager approves closure and detours, CITY shall place a sign at each end of any closed trail segment as directed by the Project Manager to mark the closure and direct trail/road users to the approved detour.
- g. Erosion Control - CITY shall practice erosion control at all times. CITY shall submit its erosion control measures for the COUNTY's Project Manager's approval 72 hours before such measures may be needed.
- h. Debris Removal - CITY shall remove all debris and hazardous materials resulting from the CITY's operations to a legal dumpsite.
- i. No Grading - CITY shall not grade any park property.

8. CONSTRUCTION HOURS AND SCHEDULE.

Construction hours shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday as, unless other hours are approved in advance by COUNTY's Project Manager.

CITY shall provide the Project Manager with its construction schedule at the start of the project and a monthly update of the schedule.

EXHIBIT C

Temporary Construction Access and Permit

9. DAMAGE PREVENTION.

CITY shall exercise extreme care not to damage any vegetation or facilities in the surrounding areas. CITY shall request permission for trimming any trees from the Project Manager at least 72 hours in advance.

10. COUNTY APPROVAL OF CONSTRUCTION DOCUMENTS.

No construction documents have been submitted for review by COUNTY as of the time of execution on this permit. COUNTY shall have the right to approve all construction documents that affect the Permit Area. CITY shall submit such documents to the Project Manager at least 40 working days before construction starts in the Permit Area. Construction shall not proceed without the Project Manager's written approval of the documents. If additional changes are made to the plans after start of construction, the CITY shall submit adequate documents to the COUNTY's Project Manager for his review and approval. COUNTY's Project Manager shall respond within five (5) working days of receipt of additions. If COUNTY fails to review and comment within the five days, CITY's plans shall be deemed approved. COUNTY shall not unreasonably withhold its approval.

III. RESTORATION

1. SITE CONDITIONS

CITY shall restore the COUNTY's facilities affected by the Project to their original or better condition according to the plans approved by the COUNTY's Project Manager before construction is completed and equipment is removed from the Project area. After restoration, CITY shall provide COUNTY with as-built drawings of the approved restoration, if appropriate.

IV. GENERAL PROVISIONS

1. REVOCATION

COUNTY may only revoke this Permit for CITY's breach of its conditions. If CITY breaches this Permit, COUNTY shall give CITY five (5) days' written notice to cure or make a good faith effort to cure the breach. If the breach is not subject to cure within five (5) working days, CITY shall make a good faith effort to begin to cure the breach. Upon revocation or end of this Permit, CITY shall remove all equipment and materials immediately from COUNTY's property and leave the property. CITY shall leave COUNTY's property in a clean, neat and safe condition.

2. CONDITION OF PERMIT AREA

COUNTY does not warrant or represent that the Permit Area is safe, healthful or suitable for the permitted use under this Permit. CITY agrees to conduct its own investigations and make its independent determination of such matters.

3. CITY'S RISK

CITY assumes all risks connected to entry to the Permit Area under this Permit.

4. WAIVER OF CLAIM

CITY waives any claim against COUNTY, its employees and agents for injuries sustained by CITY in the Permit Area and for any damage to CITY's property, except for claims that may be due to the COUNTY's comparative negligence or willful misconduct.

EXHIBIT C

Temporary Construction Access and Permit

5. INDEMNIFICATION

CITY expressly assumes for itself, its agents, employees, and contractors all risks and damages to persons or property caused by the exercise of rights and privileges granted under this Permit or by any wrongful or negligent act or omission of CITY, its agents or employees.

CITY agrees to indemnify and hold COUNTY harmless from all claims, actions, damages, liabilities, costs and expenses, which may arise or are asserted against COUNTY from CITY's breach, violation, or nonperformance of any condition under this Permit. In addition, CITY also agrees to indemnify COUNTY because of injuries to persons or damages to property to the extent that such damage or injury may be caused by any act or omission, negligent or not, of CITY or any of its agents, employees, or contractors or of any other person entering the Permit Area with CITY's express or implied invitation. CITY's indemnity of COUNTY also extends to any such injury or damage that may in any other way arise from or out of the occupancy or use of CITY, its agents, employees, or contractors of the Permit Area.

CITY's assumptions of risk and indemnities stated in this Paragraph 5 shall not extend to those portions of loss or damages caused by COUNTY's comparative negligence or willful misconduct.

6. INSURANCE

CITY shall ensure that its contractors maintain in full force and effect comprehensive automobile and general liability insurance covering bodily and personal injury and property damage throughout the term of this Permit at CITY's or contractor's sole cost and expense as shown in Exhibit B.

CITY shall provide coverage for the COUNTY equal to CITY's coverage in all such insurance or self-insurance. Any other insurance maintained by COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance provided under said CITY insurance.

Such insurance policies shall not be canceled or materially changed without thirty (30) days' advance written notice to the COUNTY at the address shown under NOTICES.

7. COMPENSATION FOR DAMAGE

CITY agrees to pay COUNTY reasonable compensation for any damage not repaired through CITY's restoration of affected areas caused or allowed by CITY while exercising the rights and privileges granted under this Permit.

8. NOTICE

CITY shall provide any notice required under this Permit to the COUNTY's Project Manager Mohamed Assaf (Tel. 408-355-2208 - FAX 408- 355-2290). Failure to notify is cause for revocation. Other written communications required or permitted shall be served personally or by United States mail. Such service by mail shall be considered given if deposited in United States mail, first class, postage prepaid, addressed as follows:

COUNTY

Construction Management
Parks & Recreation Department
298 Garden Hill Drive
Los Gatos, CA 95032
408-355-2208

CITY

City of Milpitas
Greg Armendariz, City Engineer
455 E. Calaveras Blvd.
Milpitas, CA 95035
408-586-3328

EXHIBIT C
Temporary Construction Access and Permit

9. LAWS AND PERMITS

CITY shall comply with all laws, statutes, regulations, and administrative orders, obtain all permits which may be required by public agencies having jurisdiction over the CITY's activities and comply with all conditions and requirements set forth in the permits issued by such public agencies at its sole cost and expense.

10. AMENDMENTS

Any amendments to this Permit must be made in writing and executed by both parties.

11. DELEGATION OF AUTHORITY

COUNTY delegates authority to the COUNTY's Director of Parks and Recreation to execute any documents to carry out the purposes of this Permit, including, but not limited to, amendments to the Permit.

The parties have executed this Agreement as of the latest date shown below:

COUNTY

CITY

Liz Kniss, Chair
Board of Supervisors

Charles Lawson
Interim City Manager

Date: _____
Signed and Certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

Date: _____

ATTEST:

ATTEST:

Phyllis A. Perez, Clerk
Board of Supervisors

Donna Biles,
City Clerk

Date: _____

Date: _____

APPROVED AS TO FORM &
LEGALITY

APPROVED AS TO FORM &
LEGALITY

Kathryn A. Berry,
Deputy County Counsel

City Attorney

EXHIBITS:

Exhibit A Maps of Temporary Construction and Access Permit Areas
Exhibit B Insurance Requirements

EXHIBIT C

Temporary Construction Access and Permit

TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS

EXHIBIT A - Page 1 of 7

Map of all Segments

Maps describe sixty (60) foot wide linear alignment of existing roads, 30 feet either side of centerline

Park: Ed R. Levin

Project: Spring Valley Heights

Waterline

Temporary Construction Permit & Access

APN: 029-36-004 & 003, 029-34-002

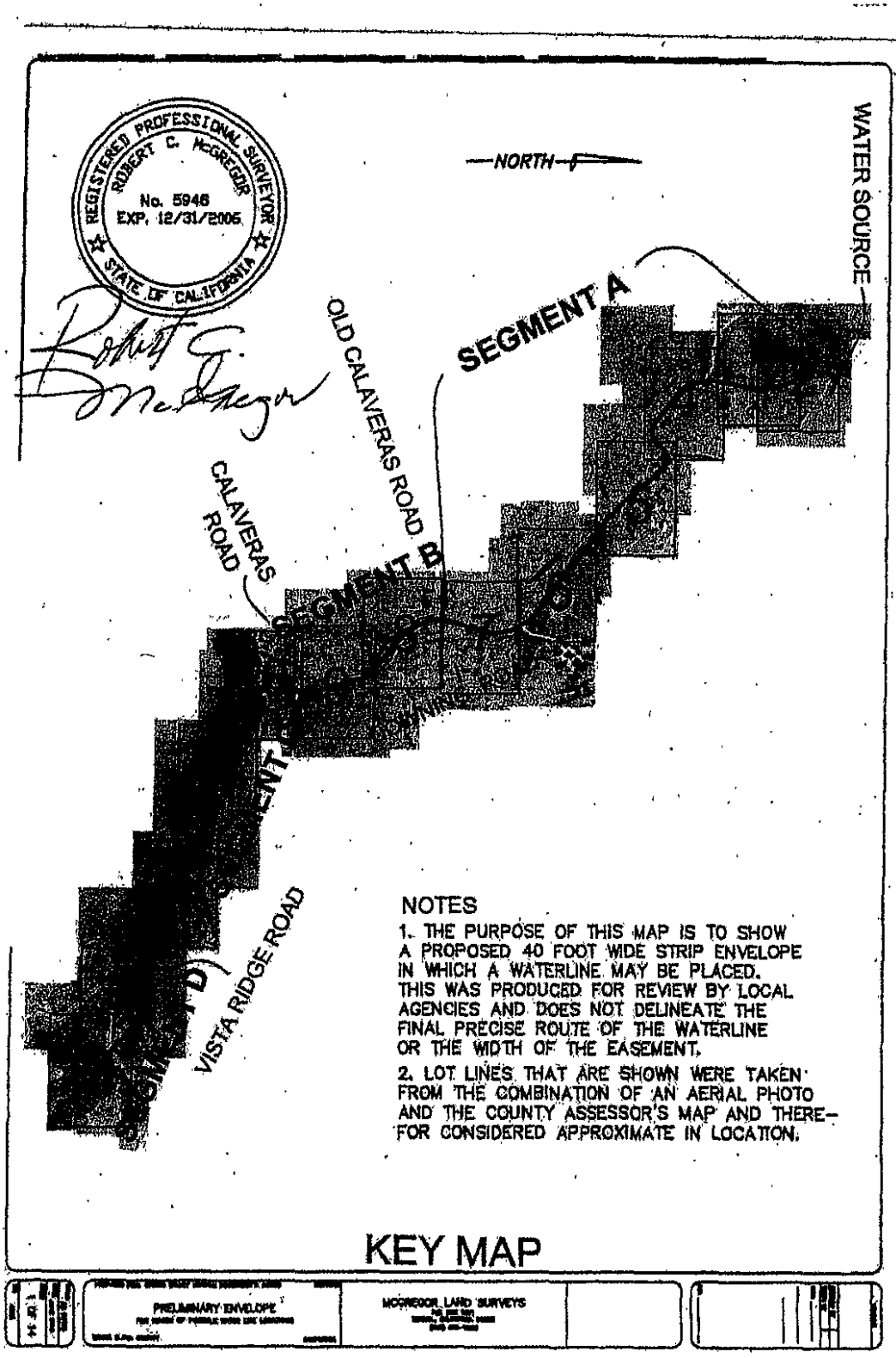
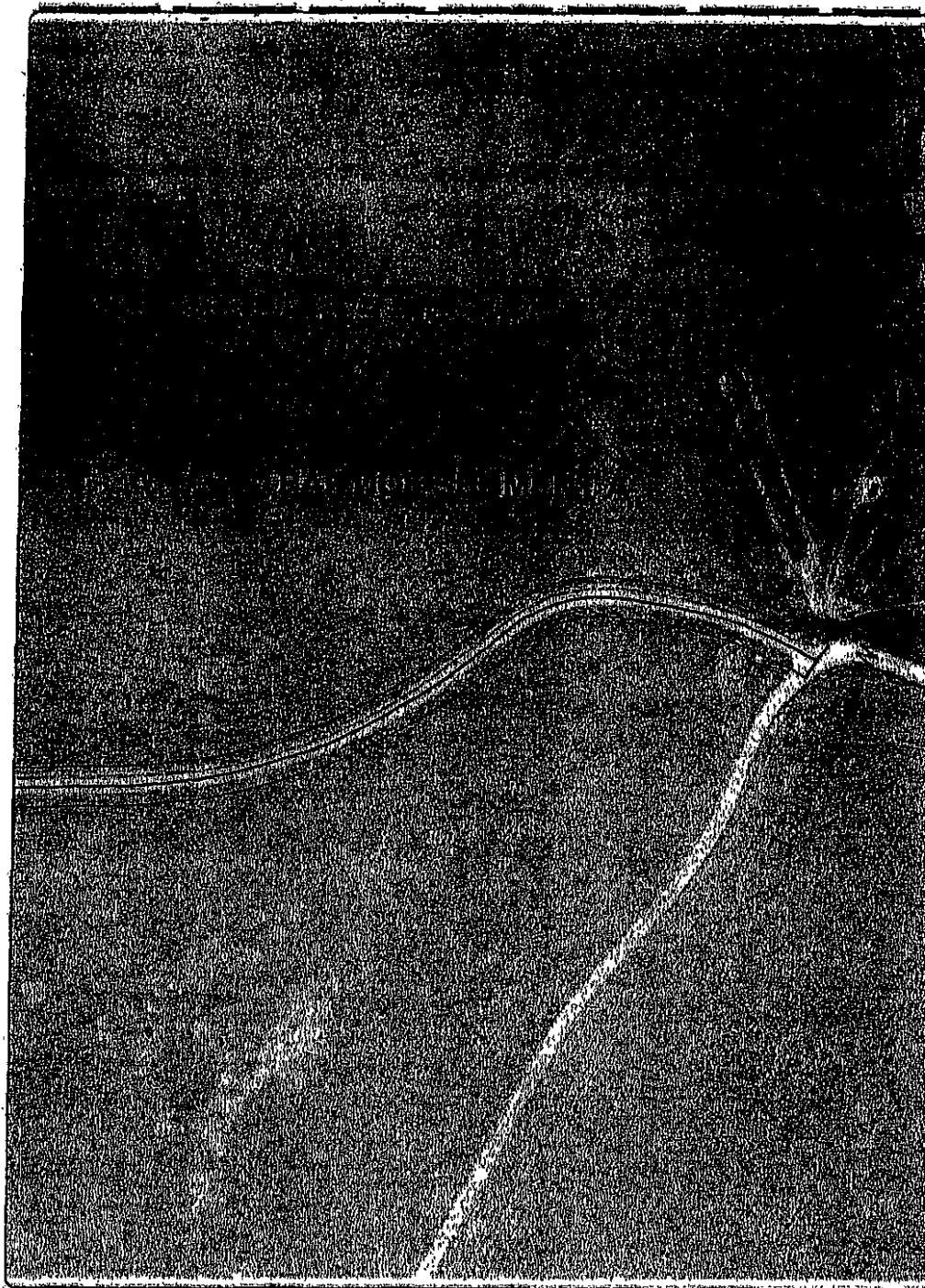


EXHIBIT C
Temporary Construction Access and Permit

TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS
EXHIBIT A- Page 2 of 7

Park: Ed R. Levin
Project: Spring Valley Heights
Waterline
Temporary Construction Permit & Access
APN: 029-36-004 & 003, 029-34-002




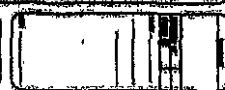
	<p>PRELIMINARY ENVELOPE THIS PROJECT IS SUBJECT TO THE CALIFORNIA PUBLIC LAND ACT</p>	<p>MONITORING LAND SURVEY MILPITAS, CALIFORNIA 2000-01-01</p>	
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EXHIBIT C

Temporary Construction Access and Permit

TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS

EXHIBIT A - Page 3 of 7

Project: Spring Valley Heights

Waterline

Temporary Construction Permit & Access

APN: 029-36-004 & 003, 029-34-002

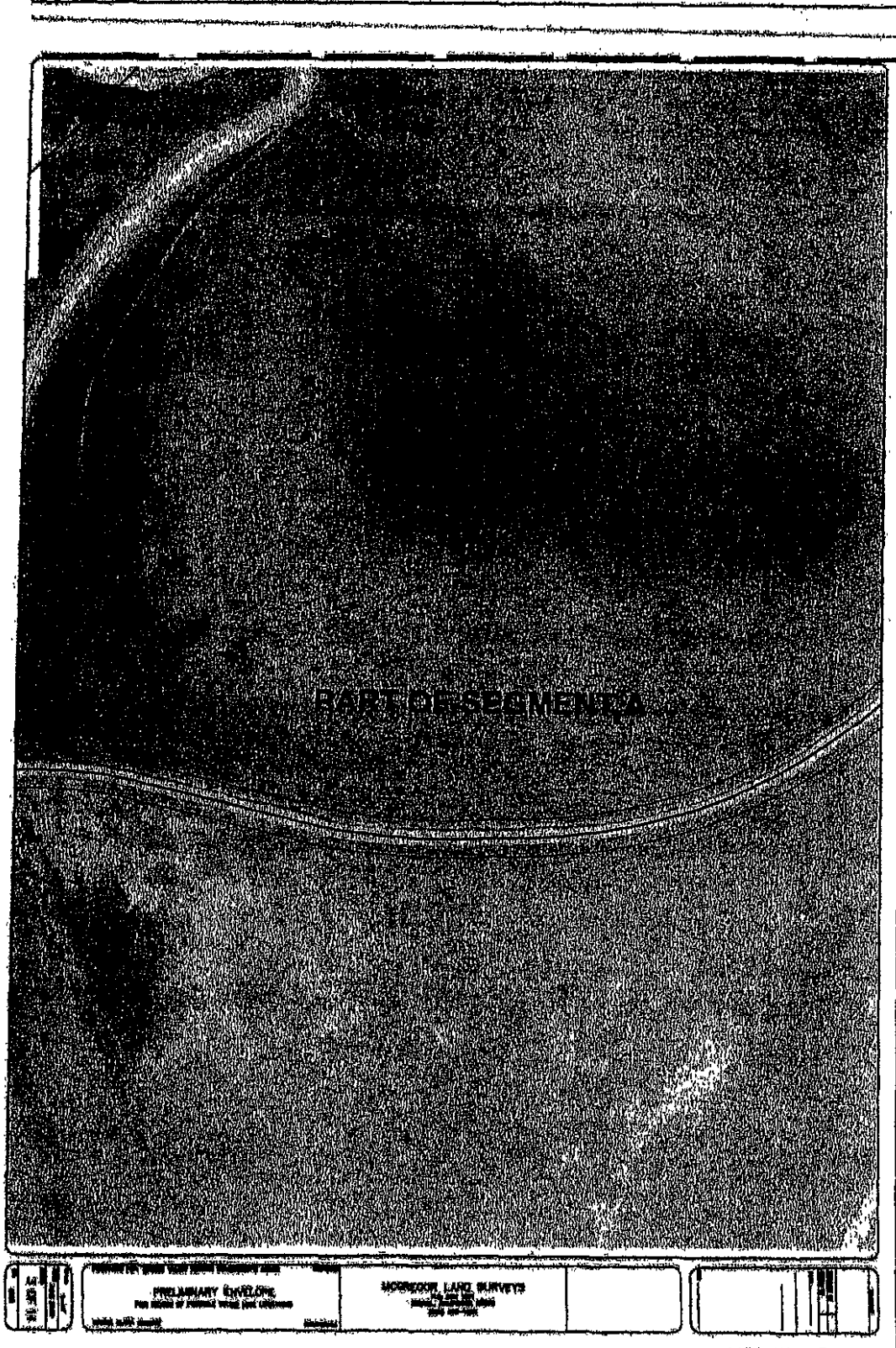


EXHIBIT C

Temporary Construction Access and Permit

TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS

EXHIBIT A - Page 4 of 7

Project: Spring Valley Heights
Waterline

Temporary Construction Permit & Access
APN: 029-36-004 & 003, 029-34-002

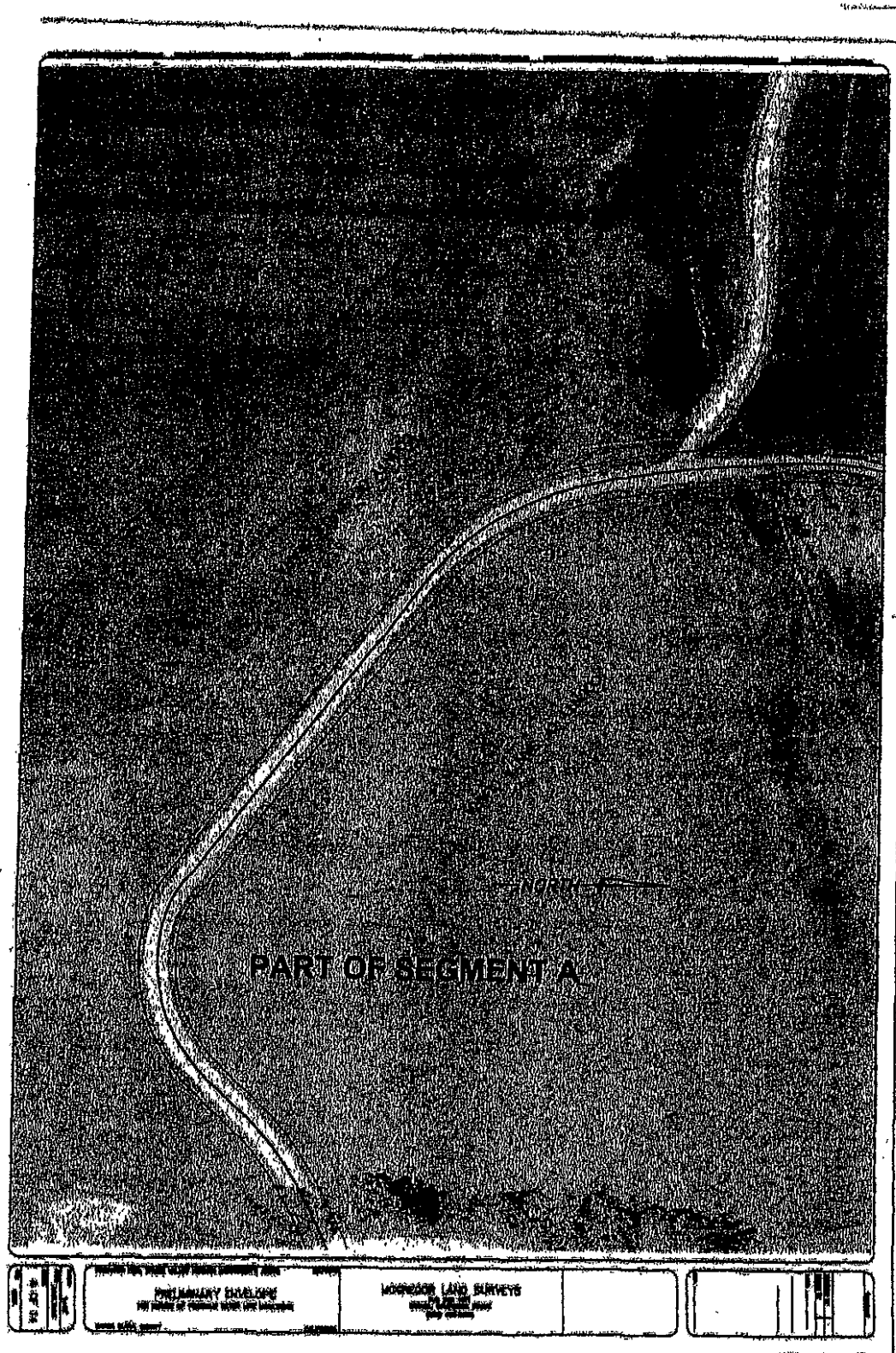


EXHIBIT C

Temporary Construction Access and Permit TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS
EXHIBIT A - Page 6 of 7

Project: Spring Valley Heights
Waterline
Temporary Construction Permit & Access
APN: 029-36-004 & 003, 029-34-002



PREPARED FOR: Spring Valley Heights
PREPARED BY: MICHAEL B. DYKES
DATE: 10/10/2017

APPROVED BY: MICHAEL B. DYKES
DATE: 10/10/2017



EXHIBIT C

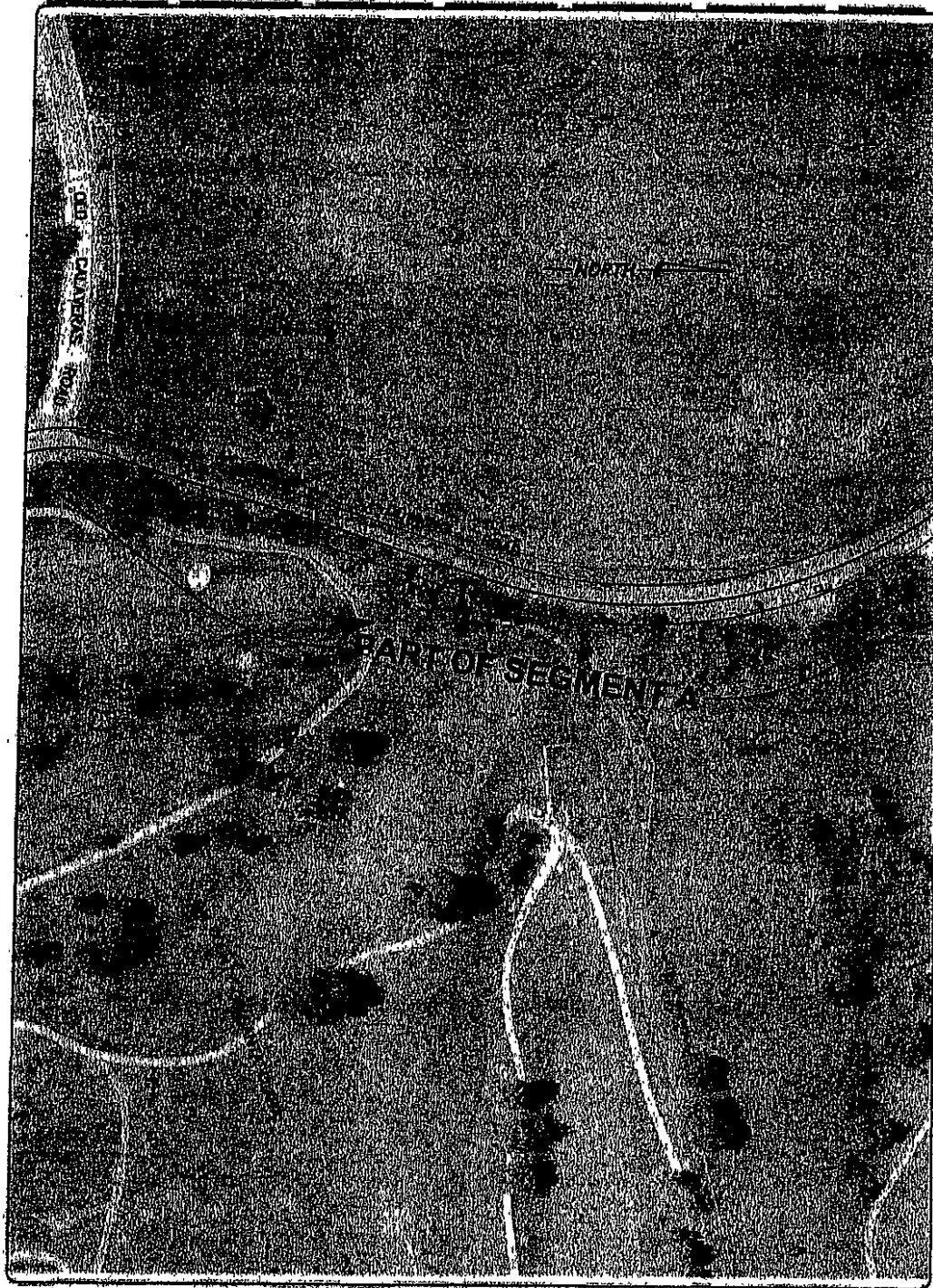
Temporary Construction Access and Permit TEMPORARY CONSTRUCTION PERMIT

CITY OF MILPITAS

EXHIBIT A- Page 7 of 7

Project: Spring Valley Heights
Waterline

Temporary Construction Permit & Access
APN: 029-36-004 & 003, 029-34-002



7/27/05	PRELIMINARY ENVELOPE FOR REVIEW OF PROJECTS UNDER THE PERMIT	WORKING LAND SERVICE FOR THE CITY OF MILPITAS JANUARY 2005	
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EXHIBIT C

Temporary Construction Access and Permit

WATERLINE EASEMENT

EXHIBIT B

INSURANCE REQUIREMENTS

Page 1 of 5

Park: Ed R. Levin

Project: Milpitas Waterline

APN: 029-34-002, 029-36-003 &
004

INSURANCE REQUIREMENTS FOR ENVIRONMENTAL SERVICES CONTRACTS

(Hazardous Waste Disposal, Remediation Services, Environmental Consulting, etc.)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

EXHIBIT C
Temporary Construction Access and Permit
WATERLINE EASEMENT

Project: Milpitas Waterline

EXHIBIT B
INSURANCE REQUIREMENTS
Page 2 of 5

APN: 029-34-002, 029-36-003 &
004

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Products/Completed Operations aggregate - \$2,000,000
 - d. Personal Injury - \$1,000,000
2. General liability coverage shall include:
 - a. Premises and Operations
 - b. Products/Completed
 - c. Personal Injury liability
 - d. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

"County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara; and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the

EXHIBIT C

Temporary Construction Access and Permit

WATERLINE EASEMENT Project: Milpitas Waterline

EXHIBIT B

INSURANCE REQUIREMENTS

Page 3 of 5 APN: 029-34-002, 029-36-003 & 004

additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles. Coverage shall include Environmental Impairment Liability Endorsement MCS90 for contracts requiring the transportation of hazardous materials/wastes.

4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. Contractors Pollution Liability Insurance or Pollution Errors and Omissions Liability Insurance

Coverage shall provide a minimum of not less than five million dollars (\$5,000,000) per occurrence and aggregate for bodily injury, personal injury, property damage and cleanup costs both on and offsite.

7. Professional Errors and Omissions Liability Insurance (required for contractors providing professional services, such as through a professional engineer, registered geologist, etc.)

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence/aggregate.
- b. If coverage contains a deductible or self-retention, it shall not be greater than fifty thousand dollars (\$50,000) per occurrence/event.

EXHIBIT C

Temporary Construction Access and Permit

WATERLINE EASEMENT

Project: Milpitas Waterline

EXHIBIT B

INSURANCE REQUIREMENTS

Page 4 of 5

APN: 029-34-002, 029-36-003 &
004

- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

8. Claims Made Coverage

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or

EXHIBIT C

Temporary Construction Access and Permit

WATERLINE EASEMENT

Project: Milpitas Waterline

EXHIBIT B

INSURANCE REQUIREMENTS

Page 5 of 5

APN: 029-34-002, 029-36-003 &
004

countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.